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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,140	01/24/2005	Tino Arlt	449122076800	3993
25227 7590 09/18/2007 MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 400 MCLEAN, VA 22102			EXAMINER TRAN, BINH Q	
			ART UNIT 3748	PAPER NUMBER
			MAIL DATE 09/18/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/522,140

Applicant(s)

ARLT ET AL.

Examiner

BINH Q. TRAN

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

This office action is in response to the amendment filed June 20, 2007.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office 71action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

*Claims 1-9 are rejected under 35 U.S.C. 102 (e) as being anticipated by Ono et al. (Ono)*

*(Patent Number 6,438,948).*

Regarding claims 1 and 4, Ono discloses a method for regenerating a particulate filter (6), which is mounted in an exhaust gas channel of an internal combustion engine (1), filters particles out of the exhaust gas flowing inside of the exhaust gas channel and is intermittently regenerated during operation, comprising: measuring actual air mass flow (e.g.  $G_n$ ) supplied to the internal combustion engine; adapting a model (e.g. 20) for determining the an air requirement (e.g.  $G_n'$ ) to be expected at a current operating point to the actual air mass flow (e.g.  $G_n$ ); and regeneration of the particulate filter is initiated if the model lies outside a predetermined parameter ranges after the adaptation (e.g. A, B) (e.g. See col. 5, lines 42-67; col. 6, lines 1-67; col. 7, lines 1-38).

Regarding claim 2, Ono further discloses that the regeneration is triggered if a difference of the actual air mass flow from the calculated air requirement exceeds a predetermined threshold value (e.g. See col. 5, lines 42-67; col. 6, lines 1-67; col. 7, lines 1-38).

Regarding claim 3, Ono further discloses that the air requirement is determined taking an empty or cleaned particulate filter as starting point (e.g. See col. 5, lines 42-67; col. 6, lines 1-67; col. 7, lines 1-38).

Regarding claim 5, Ono further discloses that the model is adapted to the actual air mass flow, whereby at least one adjustment value is suitably set and a regeneration is triggered if the adjustment value is outside the predetermined ranges (e.g. See col. 5, lines 42-67; col. 6, lines 1-67; col. 7, lines 1-38).

Regarding claim 6, Ono further discloses that the determination of the air requirement, other variables influencing the air requirement than accumulation of particles in the particulate filter are taken into consideration (e.g. See col. 5, lines 42-67; col. 6, lines 1-67; col. 7, lines 1-38).

Regarding claim 7, Ono further discloses that the determination of the air requirement and a decision as to whether a regeneration is triggered occur at discrete operating points of the internal combustion engine (e.g. See col. 5, lines 42-67; col. 6, lines 1-67; col. 7, lines 1-38).

Regarding claim 8, Ono further discloses that the air requirement is calculated for control of the internal combustion engine, whereby a partly loaded filter is taken as a starting point (e.g. See col. 5, lines 42-67; col. 6, lines 1-67; col. 7, lines 1-38).

Regarding claim 9, Ono further discloses that the actual air mass flow supplied to the internal combustion engine is determined by an air mass measuring device (e.g. 5) mounted in an intake tract of the internal combustion engine, or by a pressure sensor mounted in the intake tract of the internal combustion engine (e.g. See col. 5, lines 42-67; col. 6, lines 1-67; col. 7, lines 1-38).

#### ***Response to Arguments***

Applicant's arguments filed June 20, 2007 have been fully considered but they are not completely persuasive. ***Claims 1-9 are pending.***

Applicant's cooperation in explaining the claims subject matter more specific to overcome the claim rejection is appreciated.

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection as discussed above.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Binh Tran whose telephone number is (571) 272-4865. The examiner can normally be reached on Monday-Friday from 8:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reach on (571) 272-4859. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BT  
September 15, 2007



Binh Q. Tran  
Patent Examiner  
Art Unit 3748